

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN ALLAN WALTERS**, on January 22, 2001 at 9:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Allan Walters, Chairman (R)  
Rep. Debby Barrett, Vice Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Norma Bixby (D)  
Rep. Dee Brown (R)  
Rep. Donald L. Hedges (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Jent (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Gay Ann Masolo (R)  
Rep. Douglas Mood (R)  
Rep. Alan Olson (R)  
Rep. Holly Raser (D)  
Rep. Rick Ripley (R)  
Rep. Clarice Schrupf (R)

**Members Excused:** Rep. Michelle Lee (D)

**Members Absent:** Rep. Frank Smith (D)

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Ruthie Padilla, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 37, 1/17/2001; HJ 8,  
1/17/2001; HB 311, 1/17/2001  
Executive Action: HB 241; HB 293; HB 74

HEARING ON SB 37

Sponsor: SENATOR DALE MAHLUM, SD 35, MISSOULA

Proponents: John McEwen, Department of Administration  
Tom Schneider, MT Public Employees Association  
Tom Biledeau, MEA-MFT  
Glen Levets, University Systems  
Leo Berry, Association of Montana Retired Public  
Employees

Opponents: Kelly Jenkins, Public Employees Retirement Board

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 17.5}*

SENATOR DALE MAHLUM, SD 35, MISSOULA, commented, he calls this bill his Bus Driver bill. The bill simply asks the approval of letting a retired employee work more than 640 hours per year. It asks permission, if needed, to allow an employee to work up to 960 hours. Twenty percent of the people who currently work in the Government, are in the baby boomer status. Approximately Sixteen percent of the baby boomers will be retiring in the coming years. This bill is a win-win situation, as there are no financial consequences against the state general fund. He also stated he spoke to a Bus Driver from Florence. Due to the 640 hour law, the Bus Drivers cannot work a full year. In March or April, a new Bus Driver has to be hired, one who is not familiar with the schedule and bus routes.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 5.1}*

John McEwen, Department of Administration, submitted written testimony. **EXHIBIT**(sth17a01)

Tom Schneider, MT Public Employees Association, gave on a scenario. Two School Bus Drivers who drove bus with each other both retired. One Bus Driver returned to driving part time for a district who contracts for school busses. The other continued to do some work for a district that owned its' own school busses. The difference is, the district that owns its' own school busses, is covered by Public Employees Retirement (PERS). The district that contracts for Bus Drivers does not provided PERS coverage to the contract driver, therefore, the contract driver can drive as many hours as he wants and still draw his retirement benefit.

The person who is retired and still working for an employer who is covered by PERS is limited to 640 hours. He keeps running into the situation, where at the end of the year he has to be taken off of a normal or special run that he is filling in for. This is a bill that will allow the state to utilize a limited number of people for things they need expertise for. It will allow a few people to go back to work and make a little additional money to help pay a very large health insurance bill. This is a good bill and will not hurt the system.

**Tom Biledeau, MEA-MFT**, stated ordinary retirement standards will remain in place. This legislation will not provide an early retirement option, it only provides additional flexibility for workers and employers. It is a voluntary agreement between the employer and employee and does not make a mandate on anyone. This is an important piece of legislation.

**Glen Levets, University Systems** stated they support the bill as it provides flexibility for both the employer and employee. Campuses often lose employees with very skilled expertise due to their retirement. This would allow them to return to fill in for vacations, training replacement, and cover registration.

**Leo Berry, Association of Montana Retired Public Employees**, stated they are a 4,000 member association of retired public employees throughout the state and they are in support of the bill.

#### Opponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 17.5}*

**Kelly Jenkins, Public Employees Retirement Board**, submitted a summary count of all systems **EXHIBIT(sth17a02)** and written testimony. **EXHIBIT(sth17a03)**

#### Questions from Committee Members and Responses:

*{Tape : 1; Side : B; Approx. Time Counter : 0}*

**REPRESENTATIVE BROWN** asked what percent of individuals that retire each year are female verses male. **Kelly Jenkins** replied is about 50-50.

**REPRESENTATIVE HEDGES** asked if we raised the current hours to 960, how would this effect the teachers. **Tom Biledeau**, replied teachers are covered under a different retirement system and are not effected by this bill. The two systems operate under different rules.

**CHAIRMAN WALTERS** asked if the members who receive benefits from PERS are taxed for Social Security. **Mike O'Connor**, replied Socials Security is bases on your income and retirement is part of that income.

**REPRESENTATIVE BROWN** asked if this bill involves a lot of people, and in that involvement, would we as legislatures be at a fine edge, by this benefitting us. **SENATOR MAHLUM** replied this bill does not involve the legislature. All the bill asks for is to increase the hours.

**REPRESENTATIVE JACOBSON** asked if there was a limit increase above 640 hours that the Public Employees Retirement Board would be acceptable to. **Kelly Jenkins** replied he does not have the authority to go beyond the currently law.

**REPRESENTATIVE OLSON** stated he seen an issue with people who are on PERS returning to the system, what about retired Highway Patrolmen, Game Wardens, Teachers, and people in the Sheriffs' and Piece Officers' Retirement System. Wouldn't that still be, in your words "double dipping". **Kelly Jenkins** replied that section three of the bill deals with PERS only. Sections one and two does deal with some of the other systems. He said he does not see this being an issue of double dipping, but wether it a good idea to have individuals coming back into service for the same employer. **REPRESENTATIVE OLSON** then asked what about individuals who retire out of other government retirement plans that change over to PERS. **Kelly Jenkins** replied that is allowable under current law without loss of retirement benefit. This bill does not change that, however, there are provisions that apply to other safety service systems. For example, if they were a highway patrolman and retire, then return as a PERS covered position, as opposed to highway patrol officers retirement system, the 600 hour limitation would apply to them. This is to not to prevent highway patrolman from coming back more than 600 hours, but because the particular highway patrolman addressed by this section have received a special allotment from the highway patrol to purchase extra service. They were given a bonus, if they would accept the 599 hour restriction.

**REPRESENTATIVE RASER** asked **Kelly Jenkins** if his only objection with the bill is the incentive given to individuals to retire. **Kelly Jenkins** replied he objects to the whole bill.

**REPRESENTATIVE MASOLO** asked if there would be a problem in changing the hours to 800, since this would cover the legislature, plus ten extra days. **REPRESENTATIVE MAHLUM** asked if he could defer her question until the closing of the hearing. **REPRESENTATIVE MASOLO** replied that would not be a problem.

**REPRESENTATIVE DELL** asked, if an individual is employed in a high paying position and then retires. That individual missed working and returned back to work on a part-time basis. Would that individual return to work receiving the same pay they were receiving when they left. **John McEwen** replied, if the individual was previously working and retired as a pay grade 15 and returned to work part-time answering phones, which is a pay grade 7, that individual would be paid the pay grade 7.

**REPRESENTATIVE LEHMAN** asked if the state still uses 2,080 hours for a full work year. **Mike O'Connor** replied, yes.

**REPRESENTATIVE LEHMAN** said, with that being the case, the 960 hours the bill is proposing comes out to 120 days, 80 hours short of that. **REPRESENTATIVE LEHMAN** then asked, if the difference between PERS Members and Teacher Retirement Members is that PERS Members are generally paid on an hourly basis and teachers are on a contractual annual salary. **Mike O'Connor** replied that is correct. **REPRESENTATIVE LEHMAN** clarified, the school year is generally 180 days and retirees can make up to 1/3 of their salary, therefore, a teacher could work for 60 days per year without a penalty and PERS retired individuals could work 80 days. The change in the bill would increase it up to 120 days. **Mike O'Connor** stated that was correct. **DAVID SENN** clarified, the limit is actually 1/3 of their final average salary. Therefore, technically there is no rule on days. For example, it is not 1/3 of 180 days. They can work 190 days if they wanted to, as long as they do not make more than 1/3 of their final average salary.

**Closing by Sponsor:**

***{Tape : 2; Side : A; Approx. Time Counter : 4}***

**REPRESENTATIVE MAHLUM** stated he does not consider this bill "double dipping". If this bill passes, they will have to go to the IRS and get approval for the bill. If the IRS says they cannot do this, then the bill will die. There are cases when state government needs replacement. When someone gets sick, they need to be able to call someone back who has previously worked there. Maybe the individuals does not want to come back, but they do to help. If changes are made to the current bill, he would like to see this bill pass with no less than 808 hours. Times are changing and the legislatures' need to change with the times.

**HEARING ON HJR 8**

**Sponsor:** REPRESENTATIVE HAL JACOBSON, HD 54, HELENA

**Proponents:** Darrell Holzer, Montana State AFL-CIO  
Rita Blowke, The League for Women Voters  
Elaine Gravely, Secretary of State  
Robert Throssell, Montana Association of Clerk &  
Recorders

**Opponents:** None

**Opening Statement by Sponsor:**

***{Tape : 2; Side : A; Approx. Time Counter : 10.5}***

**REPRESENTATIVE HAL JACOBSON, HD 54, HELENA,** stated this legislation is designed to call for a study of the voting systems and procedures currently in place in Montana. The goal of this legislation is to ensure the voters of Montana that their votes do count and if there are any problems with our voting system. This study will first, be designed to review the current voting systems and voting machine apparatus and consider if there is a need to employ newer technology in this area, should it be determined that the existing, older technology need to be retired. Secondly, we need to examine the way the intent of the voter is determined on disputed ballots. The United States Supreme Courts recently questioned the way Florida was conducting their re-count because each county had a different method of interpreting disputed ballots. The courts were correct in saying the legislature, not the courts should be provide guidance in the interpretation. There may be people who will oppose the resolution because first, they feel if it is not broke, do not fix it or it may cost too much money to change. This resolution is only a study to sort out the issues over a longer period of time than the current 90 days the legislature has. The study may find nothing needs to be done and everything works fine, but until they take a closer look at the process, they will never know if it is or is not broken. Secondly, this is not an attempt to bring in computer and internet voting, but we need to understand what the strengths and weakness of the new voting devices are. We need to return in two years and assure the voters we have a system that works.

**Proponents' Testimony:**

**{Tape : 2; Side : A; Approx. Time Counter : 15.8}**

**Darrell Holzer, Montana State AFL-CIO**, stated they are in support of this study. They are all too aware of the recent events that occurred on a national level, that have had some effects on Montana and the voters minds. In Montana, it is not uncommon to see legislative races won or lost by fewer than ten votes. It does not hurt to reassure the citizens of Montana from time to time that their votes do count.

**Rita Blowke, The League for Women Voters** submits written testimony. **EXHIBIT (sth17a04)**

**Elaine Gravely, Secretary of State for Elections** stated they are in support of the resolution. It has become very apparent that the need for standardization in our election system nation wide. Hopefully there will be federal money available to the state for improving the election systems. They feel it would be useful for a legislative committee over the interim to monitor development in the are of election reform and standardization. The Secretary of States office is willing to work closely with the committee, if the legislature designates one.

**Robert Throssell, Montana Association of Clerk & Recorders**, said Montana has a very good election system. The elections administrators support to the bill is based on some practical aspects. One, we may receive something from the federal government on how federal elections are to be conducted. Also, an interim committee may address the policy issues that come up in elections in how an election is conducted. The election administrators suggested that the make-up of the interim committee be expanded to include election administrators.

**Opponents' Testimony:**      None

**Questions from Committee Members and Responses:**

**{Tape : 2; Side : A; Approx. Time Counter : 26.4}**

**REPRESENTATIVE HEDGES** asked how deep into the election process this study will go. Will it include the water district elections, city elections and school board elections or just state-wide elections. **REPRESENTATIVE JACOBSON** stated he feels it should extend to the very local level to insure the voters that their votes count, however, the language in the bill is fairly broad based. If the interim committee feels that is too much to take on, as a sponsor he will raise that issue.

**Closing by Sponsor:**

***{Tape : 2; Side : A; Approx. Time Counter : 28.2}***

**REPRESENTATIVE JACOBSON** said he feels it is critically important to insure the voters of Montana that their votes do count.

**HEARING ON HB 311**

**Sponsor:** REPRESENTATIVE GAY ANN MASOLO, HD 40, TOWNSEND

**Proponents:** Duane Halversun, Citizen  
Senator Wayne Grimes, SD 20  
Ted Goodyear, Citizen

**Opponents:** None

**Opening Statement by Sponsor:**

***{Tape : 2; Side : B; Approx. Time Counter : 0}***

**REPRESENTATIVE GAY ANN MASOLO, HD 40, TOWNSEND**, stated there were a lot of fires in a lot of area this summer that were very serious fires. She was approached by her constituents and explained some of the concerns and problems they have had on the uniform evacuations. The purpose of the bill is to direct the Division of Disaster and Emergency Services to adopt a uniform evacuation plan. She submitted information on disaster and emergency services. **EXHIBIT**(sth17a05)

**Proponents' Testimony:**

***{Tape : 2; Side : B; Approx. Time Counter : 5}***

**Duane Halversun, Citizen**, said this summer he was in the middle of the fire and had a number of difficulties with the evacuation process. He had an officer show up at his residence just as the fire was almost to his residence. **Mr. Halversun** said he was building a fire line with his CAT., when the officer approached him and said he needed to leave, it was a mandatory evacuation. He told the officer, he had made the decision to stay and was not leaving. He then had two other individuals come out of the brush and showed him handcuffs. **Mr. Halversun** happened to arm himself that morning with a pistol and showed the officers he was armed and the officers immediately left his residence. He only did this to defuse the situation so he could continue trying to save his new home and shop. He fought the fire all that day and the



next and was able to save his home and only because he stayed. This is why he came up with a policy that would be uniform throughout the state. So when people are given the job to give evacuation orders, they have something set in statutory law that tells them what they need to do and keeps it simple for the land owner. On the current emergency service plan, it only clarifies the powers the government has, the planning, and controlling disasters. No where is there any information on dealing with the people who are in the middle of the disaster.

**Senator Wayne Grimes, SD 20**, said the areas involved in some of the worst fires where in his district. This involved a great deal of local rancher and local residences who had fairly large tracts of land. **Mr. Halversun's** incident, is not an isolated incident. He has attended many briefings and fire command centers in both fires and heard constantly of the problems that had occurred. This remedy would go a long way to prevent these things from happening again. He recommends a do pass.

**Ted Goodyear, Citizen**, stated during one of the fires, he had a similar circumstance. Him and his family were trying to take care of their home and prepare for the fire that was approaching their residence. The first officer to show up was from the fire department and told **Mr. Goodyear** he needed to leave right then and he told the officer he was staying. She said he needed to sign a release and he did. A few minutes later, two more officers approached his residence and told him he needed to leave. He explained to the officers he had already signed a release and was staying. Two more officers showed up and he took another 20 minutes in explaining to them he had already signed a release etc. After they left **Mr. Goodyear** went down and locked his gate so that he could get some work done on his home. 15-20 minutes later he heard gun shots, so he went back down to his gate and there was a deputy sheriff who shot the lock off his gate. The officers told **Mr. Goodyear** he had to leave and he again explained to the officer he was not leaving and had signed a release. The officer said if he did not leave they were going to sick their dogs on him. **Mr. Goodyear** ignored the officer and proceeded to go back to his home and the officers followed him. He began loading his truck with his valuables and in doing so he grabbed his riffle. The officers then left. **Mr. Goodyear** explained he would like to see some changes in some of the evacuation policies.

Closing by Sponsor:

*{Tape : 2; Side : B; Approx. Time Counter : 30.9}*

REPRESENTATIVE MASOLO stated during disasters people are so emotional, it is better to be proactive and have something in place. This is a safety measure and asks for committees consideration.

EXECUTIVE ACTION ON HB 241

*{Tape : 3; Side : A; Approx. Time Counter : 1.3}*

Motion/Vote: REP. JENT moved that HB 241 DO PASS. Motion carried unanimously. 17-0

EXECUTIVE ACTION ON HB 293

*{Tape : 3; Side : A; Approx. Time Counter : 2.3}*

Motion: REP. JACOBSON moved that HB 293 DO PASS.

Discussion:

REPRESENTATIVE JENT stated he urges the members to vote for the bill. It is an effective bill

Motion/Vote: REP. JACOBSON moved that HB 293 DO PASS. Motion carried unanimously. 17-0

EXECUTIVE ACTION ON HB 74

*{Tape : 3; Side : A; Approx. Time Counter : 4.4}*

Motion: REP. MASOLO moved that HB 74 DO PASS.

Motion: REP. BROWN moved that HB 74 BE AMENDED. **EXHIBIT**(sth17a06)

Discussion:

REPRESENTATIVE DELL clarified, with the amendment, there will not be a 2.9 million dollar increase to the fund. It will all be on the employee. **Sheri Heffelfinger** replied, if the other bills pass, there will be a cost increase and the difference will be picked up by the employee. It is not going to do away with that increase.

**CHAIRMAN WALTERS** clarified, if this bill passes as is, the fund will still be sound, but if the other bills pass, the fund will not be sound. **Sherif Heffelfinger** stated, the bill as drafted would not increase the contributions because the current fund can absorb that cost. The concern is if the other bills pass, there will be enough increase in the cost that this increase would no longer be able to be absorbed by the fund in a manner supported by the Retirement Board.

**REPRESENTATIVE MOOD** stated this is a very good amendment and makes sense.

**Motion/Vote:** REP. BROWN moved that **HB 74 BE AMENDED. Motion carried 16-1 with Dell voting no.**

**Motion:** REP. HEDGES moved that **HB 74 DO PASS AS AMENDED.**

**Discussion:**

**REPRESENTATIVE RIPLEY** commented, he has a problem with the possibility of all three bills passing and creating a drain on the surplus. He does not like supporting something without knowing the end result.

**REPRESENTATIVE MOOD** discussed the different pensions and the effects of the bills passing. He would like to see the five different systems unite at some point and equalize the systems. He stated, he supports this bill as it is amended.

**REPRESENTATIVE BARRETT** stated she also strongly supports this bill.

**CHAIRMAN WALTERS** commented, he is also going to support the bill, but barely. He feels the tax payer should be getting the break next time.

**REPRESENTATIVE DELL** said he is going to vote no on this bill. These are contracted agreements, once in place, they are there for good.

**Motion/Vote:** REP. HEDGES moved that **HB 74 DO PASS AS AMENDED. Motion carried 16-1 with Dell voting no.**

**ADJOURNMENT**

Adjournment: 11:50 A.M.

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REP. ALLAN WALTERS, Chairman

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RUTHIE PADILLA, Secretary

AW/RP

**EXHIBIT (sth17aad)**